

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

**FILED - LN**

April 7, 2023 10:44 AM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY: BJW SCANNED BY: 20047

Case No. \_\_\_\_\_

(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No  
(check one)

**1:23-cv-362****Phillip J. Green****U.S. Magistrate Judge**

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

v. Plaintiff Kyle gregory Stone  
Prison ID 778454

defendants Angele JAMES, JR.  
Richard Harbaugh  
Title Hum WCC

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

**Complaint for Violation of Civil Rights  
(Prisoner Complaint)**

**NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

**Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.**

**In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in *forma pauperis*.**

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Kyle G Stone

All other names by which you have been known:

ID Number

778454

Current Institution

WCC Woodland Correctional

Address

Woodland Correctional Facility WCC  
9036 E-M-36 Whitmore Lake MI 48189

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name Richard Harbaugh

Job or Title  
(if known) Hum Health Care WCC

Shield Number NA

Employer Woodland Correctional Prison WCC

Address WCC 9036 E M-36

Whitmore Lake MI 48189



Individual capacity



Official capacity

DEFENDANT WAS ACTING UNDER  
COLOR OF STATE LAW AT ALL TIMES

## Defendant No. 2

Name

~~Angele James~~Job or Title  
(if known)~~RN at WCC healthcare~~

Shield Number

NA

Employer

~~Woodland correctional PRISON WCC~~

Address

~~9036 E M-36~~~~Whitmore Lake MI 48189~~

Individual capacity



Official capacity

~~DEFENDANT WAS ACTING UNDER THE COLOR OF STATE LAW~~  
at all times

## Defendant No. 3

Name

Job or Title  
(if known)

Shield Number

Employer

Address



Individual capacity



Official capacity

## Defendant No. 4

Name

Job or Title  
(if known)

Shield Number

Employer

Address



Individual capacity



Official capacity

**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

my rights are being violated BY STATE  
officials in A STATE prison health care  
under federal laws of my constitutional  
rights

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Richard Harbaugh The Hum health care at woodland refuse to give me my sleep PAP machine ~~and~~ otherwise send me were I can use it or send me to A prison were I can get it Back defendant knows I got sleep apnea and that I could stop Breathing in my sleep also I have life really Bad health PROBLEMS I have had sleep problems and Breathing problems since I BEEN BORN defendant BEEN Denying me my Eighth Amendment Right medical

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) \_\_\_\_\_

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

The claim happend at WCC Woodland  
correctional Facility  
8-2-21

- C. What date and approximate time did the events giving rise to your claim(s) occur?

8-2-21 dont know time

- D. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

The facts are, I have sleep apnea that requires a C-pap Machine, and institutional Healthcare officials refuse to provide the C-pap Machine or approve a transfer to a facility that will allow Such a Machine.

**V. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I have had very bad sleep w/o my C-PAP Machine, causing me to stop breathing several times a night and I have awoken multiple times a night. Also very bad chest pain.

**VI. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Give me my sleep PAP machine  
and 1500\$ for suffering  
for the last 2 Half years  
without it



**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Woodland Center Correctional Facility.

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

The refusal to give me a C-Pap Machine.

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes  
☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes  
☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

At Woodland center  
correctional facility.

2. What did you claim in your grievance?

That Healthcare officials are  
refusing to provide a C-PAP machine/  
Or transfer me to a facility which  
allows one.

3. What was the result, if any?

My grievance was denied.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

I applied for and completed step 2 & 3 grievance forms.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

My step 3 was denied on grounds that Nowhere in the EHR did they find a Kite. However, step 1 & 2 acknowledged an sleep apnea dialogue. (see Decision Summary step 1)

*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

**VIII. Previous Lawsuits**

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

(\*)

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☒

Yes

☐

No

(\*)

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) Kyle Gregory Stone

Defendant(s) N Larson MDOC Officer

2. Court *(if federal court, name the district; if state court, name the county and State)*

MARQUETTE MI  
Federal District Court

3. Docket or index number

2:20-cv-144

4. Name of Judge assigned to your case

Hala Y. Sarbon

5. Approximate date of filing lawsuit

2-24-21

6. Is the case still pending?

☐ Yes☒ NoIf no, give the approximate date of disposition. 2 NA don't know

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

The case was dismissed  
in my favor the case was not  
Appealed**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 4-4-23, 2023.

Signature of Plaintiff

Mel Stone

Printed Name of Plaintiff

Kyle G Stone

Prison Identification #

772454

Prison Address

9036 E M-36White more LAKE MI

City

State

Zip Code 48189

**Additional Information:**





Kyle G Stone

Prison ID 778454

9036 E. M-36

White more LAKE MP

correctional 48189  
Woodland





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